

# EXHIBIT A

1 Arnold R. Levinson (State Bar No. 066583)  
 2 Brian H. Kim (State Bar No. 215492)  
 PILLSBURY & LEVINSON, LLP  
 The Transamerica Pyramid  
 3 600 Montgomery St., 31st Floor  
 San Francisco, California 94111  
 4 Telephone: (415) 433-8000  
 Facsimile: (415) 433-4816  
 5 Email: alevinson@pillsburylevinson.com  
 bkim@pillsburylevinson.com

6 Attorneys for Plaintiff,  
 7 KENNETH S. KLEIN

8 UNITED STATES DISTRICT COURT  
 9 SOUTHERN DISTRICT OF CALIFORNIA

10  
 11 KENNETH S. KLEIN,

12 Plaintiff,

13 vs.

14 THE NORTHWESTERN MUTUAL LIFE  
 INSURANCE COMPANY; STANDARD  
 15 INSURANCE COMPANY; FOLEY &  
 LARDNER LONG-TERM DISABILITY PLAN;  
 16 and DOES 1-30, inclusive,  
 17 Defendants.

Case No. 09 CV 2843 W (NLS)

**PLAINTIFF'S INITIAL DISCLOSURES**

18  
 19 Pursuant to Rule 26(a) of the Federal Rules of Civil Procedure, Plaintiff Kenneth S. Klein  
 20 hereby makes the following Initial Disclosures:

21 **A. Identity Of Individuals**

22 Plaintiff identifies the following individuals he anticipates possess discoverable information on  
 23 the claims contained in Plaintiff's Complaint, including but not limited to (1) the existence and extent  
 24 of Defendants Northwestern Mutual Life Insurance Company ("Northwestern") and Standard  
 25 Insurance Company's ("Standard") conflict of interest in their dual role as the entities funding the  
 26 benefits paid by The Foley & Lardner Long-Term Disability Plan ("Plan") and as the claims  
 27 administrators of the Plan; (2) Defendants' breaches of fiduciary duty (by, *inter alia*, maintaining a  
 28 secret group of legal personnel which are used to bias claims investigation and claim decisions with

1 full knowledge that such bias is improper and with full knowledge that all such activities and  
2 communications are required to be made available to and provided to plan beneficiaries); and (3)  
3 Defendants' failure to provide documents requested by Plaintiff to which he was entitled under 29  
4 U.S.C. §1024(b)(4) and other relevant sections of ERISA:

5 Christie Schlunegger Carriles, Senior Benefit Analyst, Northwestern Mutual

6 Kim Korn, Vocational Case Manager, Standard

7 Jim Kostur, Director, Standard and Northwestern Mutual

8 Henry Garrison, M.D., Consulting Physician

9 Tony Padilla, Legal Department, Northwestern

10 Julie Bolt, Legal Department, Standard

11 Holly Truxal, Senior Paralegal, Standard

12 Laurens Dronkers, Northwestern Mutual

13 Christopher Powers, ACS, FLHC, Benefits Review Specialist, Standard and Northwestern

14 Mutual

15 James R. Clark, Foley & Lardner LLP

16 Greg W. Renz, Foley & Lardner LLP

17 **B. Documents**

18 Categories of relevant documents in Plaintiff's counsel's possession and to be produced include  
19 documents sent to or from Defendants Northwestern, Standard and Foley & Lardner, LLP in  
20 connection with Plaintiff's claim for disability benefits, Bates Labeled KLEIN00001-1004.

21 **C. Computation of Damages**

22 1. Monthly disability benefits since October 7, 2008;

23 2. Interest, costs and attorneys' fees herein, which are not subject to calculation at this  
24 time;

25 3. Equitable relief, including but not limited to: (1) an injunction enjoining Northwestern  
26 or Standard from serving as a claims fiduciary or claims administrator with respect to Plaintiff's claim  
27 under the Plans; and (2) an injunction enjoining Defendants from terminating benefits for the duration  
28 of the applicable maximum period under the Plan;

1 4. Civil penalties of \$110 per day per document (as described in 29 U.S.C. §1132(c)(1)  
2 and as set forth in 29 C.F.R. §2575.502 c-1 for each document Defendants were required to provide  
3 under 29 U.S.C. §1024(b)(4) and other relevant sections of ERISA) not provided by Defendants more  
4 than 30 days after Plaintiff's requests.

5 **D. Pertinent Insurance Agreements**

6 Northwestern Group Insurance Policy No. #L651550 issued to Foley & Lardner, LLP.

7  
8 Dated: January 26, 2011

PILLSBURY & LEVINSON, LLP

9  
10 By: 

11 Arnold R. Levinson  
12 Brian H. Kim  
13 Attorneys for Plaintiff,  
14 KENNETH S. KLEIN  
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**CERTIFICATE OF SERVICE**

*Klein v. The Northwestern Mutual Life Insurance Company*

I, the undersigned, declare that I am a citizen of the United States; my business address is The Transamerica Pyramid, 600 Montgomery Street, 31<sup>st</sup> Floor, San Francisco, California 94111; I am employed in the City and County of San Francisco; I am over the age of eighteen (18) years and not a party to the within action.

On January 26, 2011, I served the foregoing document(s) described as:

**PLAINTIFF'S INITIAL DISCLOSURES**

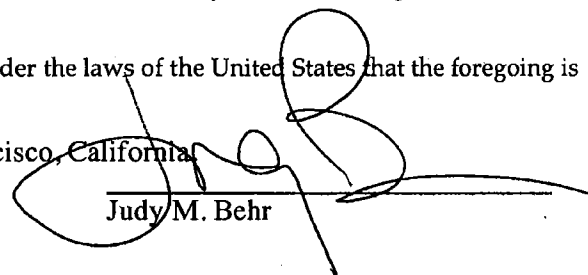
on the interested party(ies) in this action by placing ☐ the original ☒ a true copy thereof enclosed in a sealed envelope addressed as follows:

Shawn Hanson ([shandson@akingump.com](mailto:shandson@akingump.com))  
Akin Gump Strauss Hauer & Feld, LLP  
580 California Street, Suite 1500  
San Francisco, CA 94104  
Fax: 415-765-9501

Attorneys for Defendant  
**Northwestern Mutual Life  
Insurance Company; Standard  
Insurance Company**

- ☐ **BY MAIL:** I caused such envelope(s), fully prepaid, to be placed in the United States mail at San Francisco, California. I am "readily familiar" with this firm's practice for collection and processing of correspondence for mailing. Under that practice, it would be deposited with the United States Postal Service the same day, with postage thereon fully prepaid, at San Francisco, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date on postage meter date is more than one day after date of deposit for mailing in affidavit.
- ☐ **BY FACSIMILE:** In addition to service by mail, on this date I transmitted a copy of the foregoing document(s) to the facsimile number(s) shown above.
- ☒ **BY PERSONAL SERVICE:** I caused such envelope(s) to be delivered by hand on the same day, addressed to the interested party(ies) at the address(es) set forth above.
- ☐ **BY FEDERAL EXPRESS:** I caused such envelope(s) to be delivered by FEDERAL EXPRESS, overnight delivery, addressed to the interested party(ies) at the address(es) set forth above.
- ☐ **BY E-MAIL OR ELECTRONIC TRANSMISSION.** Based an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.
- ☒ **FEDERAL:** I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on January 26, 2011, at San Francisco, California

  
Judy M. Behr

# EXHIBIT B

See: ARL  
BAK

1 SHAWN HANSON (SBN109321)  
shanson@akingump.com  
2 MARIA ELLINIKOS (SBN 235528)  
mellinikos@akingump.com  
3 DANIELLE CROCKETT (SBN 261809)  
dcrockett@akingump.com  
4 **AKIN GUMP STRAUSS HAUER & FELD LLP**  
5 580 California Street, 15th Floor  
San Francisco, California 94104-1036  
Telephone: 415-765-9500  
6 Facsimile: 415-765-9501

7 Attorney for Defendants  
THE NORTHWESTERN MUTUAL LIFE INSURANCE  
8 COMPANY, STANDARD INSURANCE COMPANY,  
FOLEY & LARDNER LLP, AND THE FOLEY &  
9 LARDNER LLP LONG TERM DISABILITY PLAN

10  
11 UNITED STATES DISTRICT COURT  
12 SOUTHERN DISTRICT OF CALIFORNIA

13 KENNETH S. KLEIN,

14 Plaintiff,

15 v.

16 THE NORTHWESTERN MUTUAL LIFE  
INSURANCE COMPANY; STANDARD  
17 INSURANCE COMPANY; FOLEY &  
LARDNER LLP; and THE FOLEY &  
18 LARDNER LLP LONG-TERM DISABILITY  
PLAN; and DOES 1 through 30, inclusive,

19  
20 Defendants.  
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Case No. 09-CV-02843-TJW (NLS)

**DEFENDANTS' INITIAL DISCLOSURES**

22 Defendants The Northwestern Mutual Life Insurance Company ("Northwestern Mutual"),  
23 Standard Insurance Company, Foley & Lardner LLP ("Foley"), and The Foley & Lardner LLP Long-  
24 Term Disability Plan (collectively "Defendants") hereby submit the following initial disclosures  
25 pursuant to the Court's December 16, 2010 Order. However, as this is an action on the administrative  
26 record, Defendants note that, pursuant to Federal Rule of Civil Procedure 26(a)(1)(B), initial  
27 disclosures are not required in this case. Nonetheless, in the spirit of cooperation and without in any  
28

DEFENDANTS' INITIAL DISCLOSURES

CASE NO. 09-02843-TJW

1 way waiving its right to have the case heard on the administrative record, Defendants submit the  
2 following disclosures.

3 Defendants make these disclosures without waiver of privilege, work product protection, or  
4 other basis for non-disclosure. These disclosures are based on information reasonably available at this  
5 time. Defendants reserve the right to supplement, amend, or alter these disclosures based on  
6 information obtained in the course of discovery and litigation in this matter or otherwise.

7 **I. INDIVIDUALS LIKELY TO HAVE DISCOVERABLE INFORMATION**

8 Defendants identify the following individuals, all of whom are referenced in the claim file, as  
9 likely to have discoverable information Defendants may use to support their defense. Defendants  
10 disclose the following individuals in the spirit of cooperation and in an effort to be over inclusive  
11 rather than under inclusive. Identification of the following individuals is based on an examination of  
12 the claim file, which is attached (*see* Section II). Plaintiff should review the claim file to ensure that  
13 Plaintiff is satisfied that there are no names Plaintiff believes should be added to the following list.  
14 Please note that where no address is provided for an individual, it is because either no address was  
15 available to Defendants or because any contact with the individual is to be made through Defendants'  
16 counsel of record.

17 **A. Health Care Professionals**

18 Dr. Jeffrey Applestein  
19 Scripps Clinic  
20 3811 Valley Centre Dr S99  
San Diego, CA 92130 US  
Phone: (858) 764-3150

21 Dr. James Hemp  
22 Scripps Clinic  
23 4033 Third Ave Ste 210  
San Diego, CA 92103 US  
Phone: (619)297-5600

24 Dr. Anila Jonnala  
25 Scripps Clinic Torrey Pines  
10666 N Torrey Pines Rd MC 100C  
26 La Jolla, CA 92037 US  
Phone: (858) 554-2648

27 Dr. Allen Johnson  
28 Scripps Clinic Torrey Pines



1 10666 N Torrey Pines Rd SW206  
2 La Jolla, CA 92037 US  
3 Phone: (858) 554-8836

4 **B. Current and Former Employees**

5 Christie Schlunegger Carriles – Senior Disability Benefits Analyst

6 Kim Korn – Vocational Case Manager

7 Jim Kostur – Director, Group Benefits

8 Christopher Powers – Benefit Review Specialist

9 **C. Physicians Consulted**

10 Dr. Henry Garrison

11 Dr. Mark Eaton

12 These physicians may be contacted through counsel.

13 **D. Plaintiff**

14 Kenneth Klein  
15 11925 Handrich Ct.  
16 San Diego, CA 92131

17 **E. Plaintiff's Employer**

18 Foley & Lardner, LLP  
19 777 East Wisconsin Ave  
20 Milwaukee, WI 53202  
21 (414) 297-5437

22 **II. DOCUMENTS**

23 See the non-privileged portions of the claim file, which Defendants are producing herewith.

24 **III. DAMAGES**

25 Defendants seek to recover their attorneys' fees and costs.

26 **IV. INSURANCE**

27 Other than the policy at issue in this lawsuit, Defendants will make available for inspection and  
28 ///

///

///

1 copying any document described by Federal Rule of Civil Procedure 26(a)(1)(iv) subject to a  
2 protective order.

3  
4 Dated: January 26, 2011

**AKIN GUMP STRAUSS HAUER & FELD LLP**

5  
6 By s/Danielle Crockett  
7 DANIELLE CROCKETT  
8 Attorneys for Defendants  
9 THE NORTHWESTERN MUTUAL LIFE  
10 INSURANCE COMPANY, STANDARD  
11 INSURANCE COMPANY, FOLEY &  
12 LARDNER LLP, and THE FOLEY &  
13 LARDNER LONG-TERM DISABILITY PLAN  
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**CERTIFICATE OF SERVICE**

I, Danielle Crockett, declare:

I am a citizen of the United States and employed in the County of San Francisco, State of California. I am over the age of 18 and not a party to the within action. My business address is 580 California Street, Suite 1500, San Francisco, California 94104. On January 26, 2011, I served a copy of the DEFENDANTS' INITIAL DISCLOSURES via Overnight Delivery on the following:

Brian H. Kim  
Pillsbury & Levinson, LLP  
The Transamerica Pyramid  
600 Montgomery Street, 31<sup>st</sup> Floor  
San Francisco, CA 94111

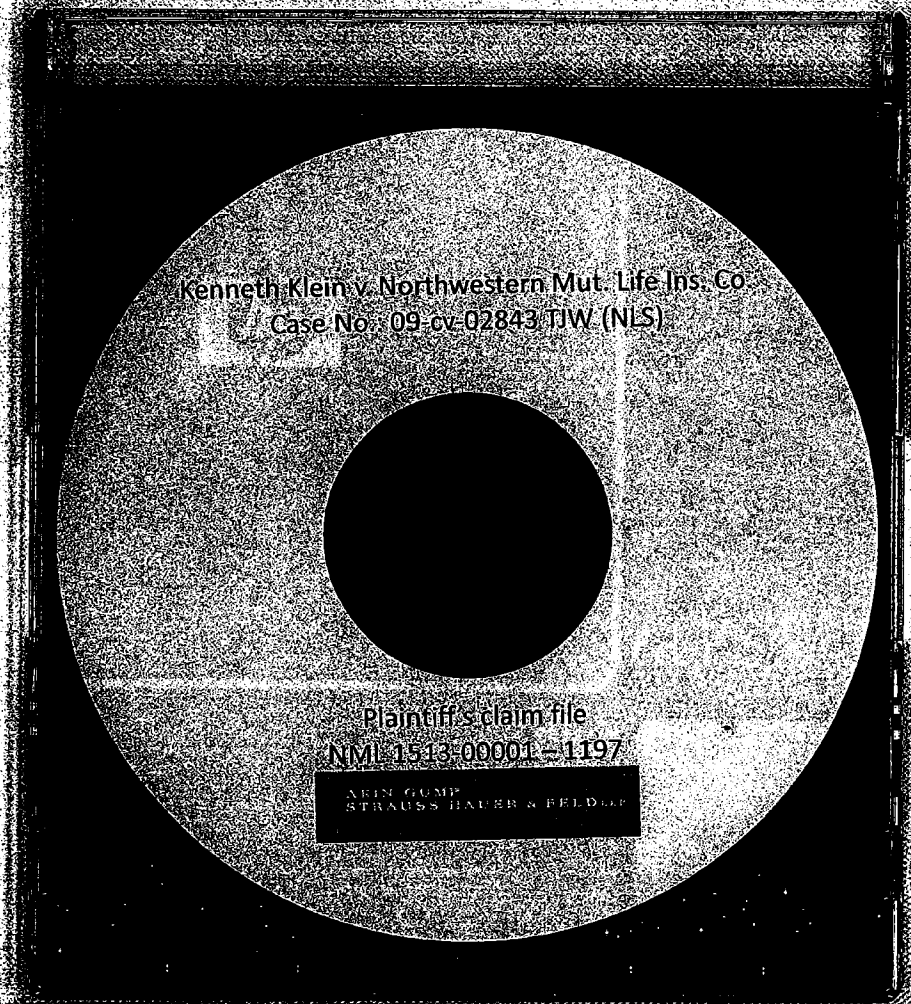
Dated: January 26, 2011

**AKIN GUMP STRAUSS HAUER & FELD LLP**

By s/Danielle Crockett  
DANIELLE CROCKETT  
Attorneys for Defendants  
THE NORTHWESTERN MUTUAL LIFE  
INSURANCE COMPANY, STANDARD  
INSURANCE COMPANY, FOLEY &  
LARDNER LLP, and THE FOLEY &  
LARDNER LONG-TERM DISABILITY PLAN

**Kenneth Klein v. The Northwestern Mutual Life Ins. Co.****PRIVILEGE LOG**

Bates Number	Date	From	To	Description	Action	Reason
NML1513-00427	9/24/08	Law Department	Analyst	Memo re: Communication between analyst and in-house attorney regarding this claim	Withhold	Attorney-Client Communication/Work Product
NML1513-00428 To NML1513-00430	9/24/08	Analyst	Law Department	Memo re: Communication between analyst and in-house attorney regarding this claim	Withhold	Attorney-Client Communication/Work Product
NML1513-00431	9/24/08	Analyst	File	Memo re: Communication between analyst and in-house attorney regarding this claim	Withhold	Attorney-Client Communication/Work Product
NML1513-00432	9/24/08	Analyst	Law Department	Fax Cover re: Communication between analyst and in-house attorney regarding this claim	Redact	Attorney-Client Communication/Work Product



# EXHIBIT C

**KOSTUR, JIM**

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**From:** Klein, Kenneth [kklein@cwsf.edu]  
**Sent:** Wednesday, February 04, 2009 7:33 AM  
**To:** KOSTUR, JIM  
**Cc:** Ken Klein; Lisa Black  
**Subject:** Ken Klein

In understanding your position, I think it also would be helpful for me to have a copy of any remarks/slides you prepare for, or videotape of your remarks at, the following panel of the upcoming Eastern Claims Conference in New York:

**Panel 8. The Cutting Edge of Disability Income,  
Session One - Up Close and Personal**

*John Abbott, ALHC, FLMI*

*Northwestern Mutual, Milwaukee, WI*

*Steve Allen, FLHC, ACS, FLMI*

*Mass Mutual Springfield, MA*

**Jim Kostur, ALHC**

*Northwestern Mutual, Portland, OR*

*Ernest Patrick Smith, CPA, CFE, CVA,*

*Nawrocki Smith, LLP, Melville, NY*

This ever-popular session will address diverse, current issues that are dealt with daily in the processing and evaluation of all types of both Individual and Group Disability Income Claims. Seasoned panelists will lead the discussions, and registered attendees will be contacted in the weeks prior to the ECC to solicit specific areas of interest. Some examples of topic items are the impact of the current economy on DI claims, disputed and non-disputed settlements, and field investigations. Areas of interest submitted by attendees will also be addressed.

3/26/2009

NML 1513-00579

**KOSTUR, JIM**

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**From:** Klein, Kenneth [kklein@cwsf.edu]  
**Sent:** Tuesday, February 10, 2009 4:45 PM  
**To:** KOSTUR, JIM  
**Cc:** Black, Lisa; Klein, Kenneth  
**Subject:** RE: Ken Klein (your claim # 00314457)

Mr. Kostur:

In your denial letter, you insinuated that Dr. Johnson's silence in response to an inquiry supported an inference from you that a substantive response by Dr. Johnson would have been harmful to my position. In that regard, I note your silence in response to the below three inquiries to you. Please do me the courtesy of either substantively responding to each, or at least confirming that you do not intend to.

Mr. Kostur:

I am in receipt of your letter dated January 26, 2009, denying my claim. I believe that your letter is inaccurate in some of its statements. These statements contradict the information in the file, as it existed when you made me a copy. In order to confirm or refute the accuracy of your letter, however, I will need to see the complete file, as information may be in the file that was not as of the date you made a copy for me. Please immediately transmit to me any materials that have been added to the file since the date of your earlier copy. Please confirm, in writing, that I now have a COMPLETE set of materials. Also, please transmit to me any claims handling policies, guidelines, or the like that pertain to the evaluation of my claim, either as it was done or as it could have been done. Finally, please note that while I am stating these requests politely, they are not informal. In the past you have not sent me any of the guidelines, policies, or the like, despite my requests. Indeed, you have not even acknowledged the requests. These are formal and appropriate requests. It would be bad faith claims handling to ignore them.

Mr. Kostur:

In light of your January 26, 2009 letter, I am going to have a conversation with Foley & Lardner regarding the coverage for Class III members under the above-referenced policy – i.e., disability coverage for the law partners of the national law firm of Foley & Lardner. Your letter states the position that the physical requirements of an attorney are a "sedentary level," and that the psychological stress of the job does not create risk even for a survivor of cardiac bypass surgery. I will raise to Foley that it is not apparent exactly what disability you consider IS covered by the policy for its Class III members, and thus not apparent that the premiums are appropriate for the level of coverage. Would you please clarify your answer to this question, so I may present your answer to Foley as well?

Mr. Kostur:

3/26/2009

NML 1513-00580



In understanding your position, I think it also would be helpful for me to have a copy of any remarks/slides you prepare for, or videotape of your remarks at, the following panel of the upcoming Eastern Claims Conference in New York:

**Panel 8. The Cutting Edge of Disability Income,**

**Session One - Up Close and Personal**

*John Abbott, ALHC, FLMI*

*Northwestern Mutual, Milwaukee, WI*

*Steve Allen, FLHC, ACS, FLMI*

*Mass Mutual Springfield, MA*

***Jim Kostur, ALHC***

*Northwestern Mutual, Portland, OR*

*Ernest Patrick Smith, CPA, CFE, CVA,*

*Nawrocki Smith, LLP, Melville, NY*

This ever-popular session will address diverse, current issues that are dealt with daily in the processing and evaluation of all types of both Individual and Group Disability Income Claims. Seasoned panelists will lead the discussions, and registered attendees will be contacted in the weeks prior to the ECC to solicit specific areas of interest. Some examples of topic items are the impact of the current economy on DI claims, disputed and non-disputed settlements, and field investigations. Areas of interest submitted by attendees will also be addressed.

Message

Page 1 of 2

**KOSTUR, JIM**

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**From:** Klein, Kenneth [kklein@cwsf.edu]  
**Sent:** Wednesday, February 11, 2009 12:34 PM  
**To:** KOSTUR, JIM  
**Cc:** Klein, Kenneth  
**Subject:** RE: Ken Klein (your claim # 00314457)

Thank you.

On a related note, the denial letter discusses the documentation found in my medical records to support or refute the claim. Please confirm that the fact set on which my claim is analyzed is not limited to what documentation is in my medical records, but rather includes all documentation that is in your claim file which supports or refutes my claim.

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**From:** jimkostur@northwesternmutual.com [mailto:jimkostur@northwesternmutual.com]  
**Sent:** Wednesday, February 11, 2009 7:48 AM  
**To:** Klein, Kenneth  
**Subject:** RE: Ken Klein (your claim # 00314457)

Mr. Klein, I will have a response mailed to you today.

-----Original Message-----

**From:** Klein, Kenneth [mailto:kklein@cwsf.edu]  
**Sent:** Tuesday, February 10, 2009 4:45 PM  
**To:** KOSTUR, JIM  
**Cc:** Black, Lisa; Klein, Kenneth  
**Subject:** RE: Ken Klein (your claim # 00314457)

Mr. Kostur:

In your denial letter, you insinuated that Dr. Johnson's silence in response to an inquiry supported an inference from you that a substantive response by Dr. Johnson would have been harmful to my position. In that regard, I note your silence in response to the below three inquiries to you. Please do me the courtesy of either substantively responding to each, or at least confirming that you do not intend to.

Mr. Kostur:

I am in receipt of your letter dated January 26, 2009, denying my claim. I believe that your letter is inaccurate in some of its statements. These statements contradict the information in the file, as it existed when you made me a copy. In order to confirm or refute the accuracy of your letter, however, I will need to see the complete file, as information may be in the file that was not as of the date you made a copy for me. Please immediately transmit to me any materials that have been added to the file since the date of your earlier copy. Please confirm, in writing, that I now have a COMPLETE set of materials. Also, please transmit to me any claims handling policies, guidelines, or the like that pertain to the evaluation of my claim, either as it was done or as it could have been done. Finally, please note that while I am stating these requests politely, they are not informal. In the past you have not sent me any of the guidelines, policies, or the like, despite my requests. Indeed, you have not even acknowledged the requests. These are formal and appropriate requests. It would be bad faith claims handling to ignore them.

3/26/2009

NML 1513-00582

Mr. Kostur:

In light of your January 26, 2009 letter, I am going to have a conversation with Foley & Lardner regarding the coverage for Class III members under the above-referenced policy -- i.e., disability coverage for the law partners of the national law firm of Foley & Lardner. Your letter states the position that the physical requirements of an attorney are a "sedentary level," and that the psychological stress of the job does not create risk even for a survivor of cardiac bypass surgery. I will raise to Foley that it is not apparent exactly what disability you consider IS covered by the policy for its Class III members, and thus not apparent that the premiums are appropriate for the level of coverage. Would you please clarify your answer to this question, so I may present your answer to Foley as well?

Mr. Kostur:

In understanding your position, I think it also would be helpful for me to have a copy of any remarks/slides you prepare for, or videotape of your remarks at, the following panel of the upcoming Eastern Claims Conference in New York:

**Panel 8. The Cutting Edge of Disability Income,  
Session One - Up Close and Personal**

*John Abbott, ALHC, FLMI*

*Northwestern Mutual, Milwaukee, WI*

*Steve Allen, FLHC, ACS, FLMI*

*Mass Mutual Springfield, MA*

***Jim Kostur, ALHC***

*Northwestern Mutual, Portland, OR*

*Ernest Patrick Smith, CPA, CFE, CVA,*

*Nawrocki Smith, LLP, Melville, NY*

This ever-popular session will address diverse, current issues that are dealt with daily in the processing and evaluation of all types of both Individual and Group Disability Income Claims. Seasoned panelists will lead the discussions, and registered attendees will be contacted in the weeks prior to the ECC to solicit specific areas of interest. Some examples of topic items are the impact of the current economy on DI claims, disputed and non-disputed settlements, and field investigations. Areas of interest submitted by attendees will also be addressed.

This e-mail and any attachments may contain confidential information of Northwestern Mutual. If you are not the intended recipient of this message, be aware that any disclosure, copying, distribution or use of this e-mail and any attachments is prohibited. If you have received this e-mail in error, please notify Northwestern Mutual immediately by returning it to the sender and delete all copies from your system. Please be advised that communications received via the Northwestern Mutual Secure Message Center are secure. Communications that are not received via the Northwestern Mutual Secure Message Center may not be secure and could be observed by a third party. Thank you for your cooperation.

3/26/2009

NML 1513-00583

Message

Page 1 of 3

**KOSTUR, JIM**

---

**From:** Klein, Kenneth [kklein@cwsf.edu]  
**Sent:** Tuesday, February 17, 2009 8:56 PM  
**To:** KOSTUR, JIM  
**Cc:** Klein, Kenneth  
**Subject:** RE: Ken Klein (your claim # 00314457)

I write to you in reference to the below email chain. I received your letter today. You do not address at all the following inquiries:

*Also, please transmit to me any claims handling policies, guidelines, or the like that pertain to the evaluation of my claim, either as it was done or as it could have been done.*

*Your letter states the position that the physical requirements of an attorney are a "sedentary level," and that the psychological stress of the job does not create risk even for a survivor of cardiac bypass surgery. I will raise to Foley that it is not apparent exactly what disability you consider IS covered by the policy for its Class III members, and thus not apparent that the premiums are appropriate for the level of coverage. Would you please clarify your answer to this question, so I may present your answer to Foley as well?*

*I think it also would be helpful for me to have a copy of any remarks/slides you prepare for, or videotape of your remarks at, the following panel of the upcoming Eastern Claims Conference in New York.*

In other words, you neither provide responsive information nor state that you will not. You simply continue to meet the questions with silence.

In your cover letter, you express confusion regarding whether my earlier correspondence is my appeal. It is not. My appeal will be forthcoming.

---

**From:** jimkostur@northwesternmutual.com [mailto:jimkostur@northwesternmutual.com]  
**Sent:** Wed 2/11/2009 7:47 AM  
**To:** Klein, Kenneth  
**Subject:** RE: Ken Klein (your claim # 00314457)

Mr. Klein, I will have a response mailed to you today.

-----Original Message-----

**From:** Klein, Kenneth [mailto:kklein@cwsf.edu]  
**Sent:** Tuesday, February 10, 2009 4:45 PM  
**To:** KOSTUR, JIM  
**Cc:** Black, Lisa; Klein, Kenneth  
**Subject:** RE: Ken Klein (your claim # 00314457)

Mr. Kostur:

In your denial letter, you insinuated that Dr. Johnson's silence in response to an inquiry supported an inference from you that a substantive response by Dr. Johnson would have been harmful to my position. In that regard, I note your silence in response to the below three inquiries to you. Please do me the courtesy of either substantively responding to each, or at least confirming that you do not intend to.

3/26/2009

NML 1513-00584

Mr. Kostur:

I am in receipt of your letter dated January 26, 2009, denying my claim. I believe that your letter is inaccurate in some of its statements. These statements contradict the information in the file, as it existed when you made me a copy. In order to confirm or refute the accuracy of your letter, however, I will need to see the complete file, as information may be in the file that was not as of the date you made a copy for me. Please immediately transmit to me any materials that have been added to the file since the date of your earlier copy. Please confirm, in writing, that I now have a COMPLETE set of materials. Also, please transmit to me any claims handling policies, guidelines, or the like that pertain to the evaluation of my claim, either as it was done or as it could have been done. Finally, please note that while I am stating these requests politely, they are not informal. In the past you have not sent me any of the guidelines, policies, or the like, despite my requests. Indeed, you have not even acknowledged the requests. These are formal and appropriate requests. It would be bad faith claims handling to ignore them.

Mr. Kostur:

In light of your January 26, 2009 letter, I am going to have a conversation with Foley & Lardner regarding the coverage for Class III members under the above-referenced policy -- i.e., disability coverage for the law partners of the national law firm of Foley & Lardner. Your letter states the position that the physical requirements of an attorney are a "sedentary level," and that the psychological stress of the job does not create risk even for a survivor of cardiac bypass surgery. I will raise to Foley that it is not apparent exactly what disability you consider IS covered by the policy for its Class III members, and thus not apparent that the premiums are appropriate for the level of coverage. Would you please clarify your answer to this question, so I may present your answer to Foley as well?

Mr. Kostur:

In understanding your position, I think it also would be helpful for me to have a copy of any remarks/slides you prepare for, or videotape of your remarks at, the following panel of the upcoming Eastern Claims Conference in New York:

**Panel 8. The Cutting Edge of Disability Income,**

**Session One - Up Close and Personal**

*John Abbott, ALHC, FLMI*

*Northwestern Mutual, Milwaukee, WI*

*Steve Allen, FLHC, ACS, FLMI*

3/26/2009

NML 1513-00585

Message

Page 3 of 3

*Mass Mutual Springfield, MA*

*Jim Kostur, ALHC*

*Northwestern Mutual, Portland, OR*

*Ernest Patrick Smith, CPA, CFE, CVA,*

*Nawrocki Smith, LLP, Melville, NY*

This ever-popular session will address diverse, current issues that are dealt with daily in the processing and evaluation of all types of both Individual and Group Disability Income Claims. Seasoned panelists will lead the discussions, and registered attendees will be contacted in the weeks prior to the ECC to solicit specific areas of interest. Some examples of topic items are the impact of the current economy on DI claims, disputed and non-disputed settlements, and field investigations. Areas of interest submitted by attendees will also be addressed.

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message

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**KOSTUR, JIM**

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**From:** KOSTUR, JIM  
**Sent:** Wednesday, February 11, 2009 7:48 AM  
**To:** 'Klein, Kenneth'  
**Subject:** RE: Ken Klein (your claim # 00314457)

Mr. Klein, I will have a response mailed to you today.

-----Original Message-----

**From:** Klein, Kenneth [mailto:kklein@cwsf.edu]  
**Sent:** Tuesday, February 10, 2009 4:45 PM  
**To:** KOSTUR, JIM  
**Cc:** Black, Lisa; Klein, Kenneth  
**Subject:** RE: Ken Klein (your claim # 00314457)

Mr. Kostur:

In your denial letter, you insinuated that Dr. Johnson's silence in response to an inquiry supported an inference from you that a substantive response by Dr. Johnson would have been harmful to my position. In that regard, I note your silence in response to the below three inquiries to you. Please do me the courtesy of either substantively responding to each, or at least confirming that you do not intend to.

Mr. Kostur:

I am in receipt of your letter dated January 26, 2009, denying my claim. I believe that your letter is inaccurate in some of its statements. These statements contradict the information in the file, as it existed when you made me a copy. In order to confirm or refute the accuracy of your letter, however, I will need to see the complete file, as information may be in the file that was not as of the date you made a copy for me. Please immediately transmit to me any materials that have been added to the file since the date of your earlier copy. Please confirm, in writing, that I now have a COMPLETE set of materials. Also, please transmit to me any claims handling policies, guidelines, or the like that pertain to the evaluation of my claim, either as it was done or as it could have been done. Finally, please note that while I am stating these requests politely, they are not informal. In the past you have not sent me any of the guidelines, policies, or the like, despite my requests. Indeed, you have not even acknowledged the requests. These are formal and appropriate requests. It would be bad faith claims handling to ignore them.

Mr. Kostur:

In light of your January 26, 2009 letter, I am going to have a conversation with Foley & Lardner regarding the coverage for Class III members under the above-referenced policy -- i.e., disability coverage for the law partners of the national law firm of Foley & Lardner. Your letter states the position that the physical requirements of an attorney are a "sedentary level," and that the psychological stress of the job does not create risk even for a survivor of cardiac bypass surgery. I will raise to Foley that it is not apparent exactly what disability you consider

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IS covered by the policy for its Class III members, and thus not apparent that the premiums are appropriate for the level of coverage. Would you please clarify your answer to this question, so I may present your answer to Foley as well?

Mr. Kostur:

In understanding your position, I think it also would be helpful for me to have a copy of any remarks/slides you prepare for, or videotape of your remarks at, the following panel of the upcoming Eastern Claims Conference in New York:

**Panel 8. The Cutting Edge of Disability Income,**

**Session One - Up Close and Personal**

*John Abbott, ALHC, FLMI*

*Northwestern Mutual, Milwaukee, WI*

*Steve Allen, FLHC, ACS, FLMI*

*Mass Mutual Springfield, MA*

***Jim Kostur, ALHC***

*Northwestern Mutual, Portland, OR*

*Ernest Patrick Smith, CPA, CFE, CVA,*

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Message

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by attendees will also be addressed.

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# EXHIBIT D

Jim Kostur

Director at The Standard

Portland, Oregon Area Insurance

- Current
- Director at The Standard
  - Director, Group Benefits at Northwestern Mutual Life

- Education
- Washington State University

Connections 2 connections

## Jim Kostur's Experience

### Director

The Standard

Insurance industry

Currently holds this position

### Director, Group Benefits

Northwestern Mutual Life

Insurance industry

1990 – Present (21 years)

## Jim Kostur's Education

Washington State University

1975 – 1977

## Jim Kostur's Contact Settings

### Interested In

- career opportunities
- consulting offers
- job inquiries
- expertise requests
- getting back in touch

## View Jim Kostur's full profile to...

- See who you and Jim Kostur know in common
- Get introduced to Jim Kostur
- Contact Jim Kostur directly

View Full Profile

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Browse members by country

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